

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
P.C. 01/28/2004 Item: 4.c.2.

File Number
CP03-055

Application Type
Conditional Use Permit

Council District
6

Planning Area
Willow Glen

Assessor's Parcel Number(s)
446-38-035

PROJECT DESCRIPTION

Completed by: Carol Hamilton

Location: East side of Booksin Avenue approximately 550 feet southerly of Curtner Avenue (2281 Plummer Avenue)

Gross Acreage: 8.80

Net Acreage: 8.80

Net Density: N/A

Existing Zoning: R-1-8 Residence

Existing Use: Private School

Proposed Zoning: No change

Proposed Use: Private School with Expanded Facilities

GENERAL PLAN

Completed by: CH

Land Use/Transportation Diagram Designation
Public / Quasi-Public

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: CH

North: Private School and Single-Family Residential

East: Single-family Residential

Residential Zoning District

South: Single-family Residential and Residential Care Facility

Residential Zoning District

West: Single-family Residential

Zoning District

Completed by: CH

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☒ Negative Declaration adopted on January 15, 2004

☐ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: CH

Annexation Title: South Willow Glen No. 11

Date: January 20, 1953

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☒ Action
☐ Recommendation

OWNER/APPLICANT/DEVELOPER

Sisters of the Presentation
Attention: Mary Miller
2281 Plummer Avenue
San José, CA 95125

Department of Public Works

See attached memoranda

Other Departments and Agencies

See attached Fire Department memorandum

GENERAL CORRESPONDENCE

See correspondence from Laverne Washington, dated July 22, 2003; Members of the Booksin Neighborhood Group, dated Sept. 29, 2003; Booksin Avenue Neighbors of Presentation High School, dated January 8, 2004; and from Julian and Catherine Amos received February 2, 2004.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Presentation High School, is requesting a Conditional Use Permit (CUP) to allow expansion and modification of the athletic facilities at the existing 8.80 acre Presentation High School campus located in the R-1-8 Residence Zoning District. Private schools were allowed by right in the R-1-8 District until 2001 when the Zoning Code Update required that such uses obtain a Conditional Use Permit, resulting in legal non-conforming status for schools like Presentation that were existing at the time of the Code change. The proposed expansion of a legal non-conforming private school use requires a Conditional Use Permit.

The school is located on a “through lot” with frontage on both Plummer and Booksin Avenues. The school’s primary building is oriented to the Plummer Avenue frontage and vehicular and pedestrian access to the site is from this Street. Two driveway entrances on Plummer (the northerly two-way and the southerly one-way, out only) connect to form a circulation loop through the campus. The center of the site includes a gym, theater, Center for Christian Living, locker room building and parking. Two duplexes, tennis courts and an unused parking area are located along the Booksin Avenue frontage. Built in 1975, the duplexes are not on the City’s Historic Resources Inventory and are not of historic significance. A softball field and three small storage sheds are located directly behind the duplexes. The duplexes are owned by the Sisters of the Presentation and are currently used to house one Sister and the School’s groundskeeper.

St. Christopher’s Elementary School and single-family residences are located to the north of the project site. Single-family residences and a residential care facility are located to the south, and single-family residences are located to the east and west.

Project Description

The project proposes the renovation and expansion of the site’s athletic facilities as described below. No increase in the number of students is proposed.

Athletic Fields. The project proposes to demolish the two duplexes on Booksin Avenue and to reconfigure and expand the existing playing field that accommodates only softball, so that it includes both a softball diamond and a soccer/hockey field. The two fields will overlap so that they cannot be used concurrently for matches/games. The soccer and field hockey seasons (September through mid-February) do not overlap with the softball season (Mid-February to May.) The field will be surfaced with a high-quality artificial turf. The side safety zones for the soccer field are proposed to be approximately seven feet in width, while the end safety zones would be ten feet. A removable 20-foot high safety netting would be used along the northern and southern ends of the soccer/hockey field during games and practices. The

softball field's existing 20-foot high black vinyl backstop, bleachers, batting cages and a bull pen would be relocated as part of the proposed project. The bleachers will seat 150 spectators. A portable public address system currently used at the site for softball games will be replaced by a permanent P.A. system. The playing fields are not proposed to be lighted for nighttime activity.

Swimming Pool. The proposed 84 by 75 foot swimming pool is located approximately 70 feet from the northerly property line. Two one-meter diving boards are proposed on the eastern side of the pool and bleachers seating 150 spectators are proposed on the pool deck. An approximately 2,500 square-foot coaches' building is proposed to be constructed to the west of the pool to be used for offices, bathrooms, and storage for pool chemicals and athletic equipment. An outdoor shower is proposed adjacent to the pool. The pool area will be surrounded by a six-foot wrought iron fence and landscaping. Eight 30-foot tall light poles are proposed for the swimming pool and pool deck. Each pole is proposed to support two full cut-off light fixtures with 1,000 watt lamps. The facility will be used for water polo and swim practice and competition, and for summer recreational swimming.

Access/Parking. The project proposes to maintain the existing driveway access to the site from Plummer Avenue. The northerly driveway will be widened to 26 feet and the existing gates will be equipped with lock boxes to facilitate emergency access to the site in conformance with Fire Department requirements. Two locked gates are proposed to be installed along Booksin Avenue for maintenance access only. No pedestrian access is proposed to the site from Booksin Avenue. The existing on-site parking is proposed to be reconfigured and increased from 204 to 212 spaces.

Landscaping. The project proposes to install new landscaping throughout the project site, including 54 additional trees. Additional shrubs and vines are proposed to be planted around the pool and on the neighborhood side of the proposed fence along Booksin Avenue. Additional street trees are proposed to fill in existing gaps along Booksin Avenue. A landscape infiltration swale with a depth of two feet is proposed along the westerly boundary of the site between the existing sidewalk and the proposed fence to accommodate increased storm water runoff due to the less permeable artificial turf used for the playing fields.

School Operation. No increases are proposed in the current student enrollment of 730, or in the number of teachers and staff (60). School hours will continue to be generally 7:40 a.m. to 2:40 p.m. with after school sports activities generally extending to between 5:30 and 7:00 in the evening. As result of the modified athletic facilities, the school's tennis program will no longer occur on the site. The softball program will continue on the site and soccer, field hockey, swimming and water polo will be moved from off-site locations to the campus.

ENVIRONMENTAL REVIEW

An Initial Study was prepared for this project in conformance with the requirements of the California Environmental Quality Act. The Initial Study included technical analyses to assess potential impacts in the areas of traffic, noise, archaeology, geology and biological resources. The traffic, archaeology and geologic studies concluded that the project would not result in significant impacts in these areas. (See discussion of traffic in the analysis section below. Mitigation was included in the project to reduce impacts to a non-significant level in the areas of air quality, noise and biology. Based on the Initial Study and mitigation included in the project, the Director of Planning circulated a Draft Negative Declaration for Public Review on December 19, 2003. A Protest of the Negative Declaration was filed by neighbors of the project site on January 8, 2004. After considering the adequacy of the environmental analysis, the Director of Planning adopted the Final Negative Declaration on January 15, 2004, and set a public hearing for

February 11, 2004 to allow the Planning Commission to consider the Protest and the adequacy of the Negative Declaration. This Conditional Use Permit is also scheduled to be heard by the Commission on February 11, immediately following the Protest.

GENERAL PLAN CONFORMANCE

The existing school use and the proposed expanded and modified athletic facilities and site improvements are consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi Public. The proposed project is also consistent with the General Plan Noise Compatibility Guidelines.

PUBLIC OUTREACH

A community meeting was held for this project on July 9, 2003 at the project site to present the proposal to the neighborhood and to solicit their comments. Those who attended the community meeting expressed concern regarding increased noise, traffic, parking in the neighborhood, visual and lighting impacts, non-school use of the athletic facilities, construction impacts, adequacy of landscaping and compatibility of the proposed facilities with the surrounding residential neighborhood. The applicant also met with smaller groups of neighbors from Edmond Court and from Booksin Avenue.

A Draft Negative Declaration was sent to tenants and property owners within 1000 feet of the project site. Notices of the Negative Declaration Protest and Conditional Use Permit hearings before the Planning Commission were also mailed to tenants and property owners within 1000 feet. Staff has been available to discuss the project with interested members of the public.

ANALYSIS

The primary issues for this project include land use compatibility and conformance with the requirements of the Zoning Code.

Land Use Compatibility

The project proposal to reconfigure and expand the school's athletic facilities will modify the appearance of the site from surrounding properties and allow additional activities to occur on the campus. As a result, a primary issue for this project has been, and continues to be, the compatibility of these new facilities and activities with the surrounding neighborhood. The compatibility issues have focused primarily on the pool and the proposed design and use of the new playing fields located at the westerly end of the site adjacent to Booksin Avenue. These issues are discussed in detail below.

Pool Location and Operation

The applicant has made significant changes to the pool location in response to staff and community concern regarding compatibility with adjacent residential uses. Originally proposed to be located close to the southerly property line adjacent to the proposed soccer fields, the pool has been moved to a more central location on the site, approximately 70 feet from the northerly property line. This location provides a larger buffer between the pool and the adjacent residences to ensure that noise and light does not result in impacts on the adjacent neighborhood.

The project noise analysis concluded that anticipated use of the pool for practices and competitions would not exceed the recommended General Plan day/night noise levels of 55 dB DNL at the nearest residential property line. The analysis took into account noise from the public address system which is proposed to be used for approximately 12 water polo games and 10 swim meets annually. In order to minimize any

disturbance of adjacent residents, the applicant has agreed to use the P.A. system only during competitions and to limit the hours of use to between 8:00 a.m. and 7:00 p.m. Monday through Saturday and to preclude its use on Sundays. Staff has included conditions in the Permit requiring the site to conform to the recommended day/night noise levels of the General Plan and to conform to the proposed P.A. system hours of operation.

Lighting of the pool facility consists of eight, 30-foot light poles equipped with dual box lights. The fixtures are full cut-off, with light directed downward. Lighting will only be used in the winter months (mid-September to mid-April). The full cut-off fixtures and the proposed 70-foot setback from the residential property line, will ensure that the pool does not result in spillover light or glare in the rear yards of adjacent residences.

Based on the above analysis, staff concludes that the design and operation of the proposed pool facility is compatible with surrounding uses.

Visual Compatibility of Booksin Frontage

From a visual standpoint, replacement of the existing residences and tennis courts with athletic fields and landscaping is clearly a change, but not one that is visually incompatible with the surrounding neighborhood. Replacement of the tennis courts will remove the existing pavement and very tall fencing (with barbed wire) that currently dominate almost half of the street frontage. Removal of the duplexes along the remainder of the site frontage will alter the existing residential development pattern and make existing school buildings more visible from Booksin Avenue; however, the site frontage has been designed in a manner that is compatible with the residential character of the street and views of existing school buildings will be distant views of structures located approximately 400 feet from Booksin Avenue. The project plans show the athletic field buffered from the street by an 8-foot vinyl clad chain link fence and 10 feet of landscaping, including trees, which will further soften views of the site from Booksin Avenue. Street trees will be planted in existing gaps along the street frontage to provide further screening. Staff originally requested that the fencing along the project frontage be upgraded to tubular steel; however, the applicant expressed concern that such fencing would be more rigid than chain link and would increase the risk of injury to school athletes. The applicant has agreed to explore options for mesh fencing with decorative posts that would improve the appearance of the fence without increasing the risk of injury. Staff has included a revised plan condition in the Draft Permit to provide for revised fencing.

Athletic Field Use Compatibility

In terms of use, the proposed project will replace residential and athletic uses (tennis and softball) at the westerly end of the site with open space that accommodates softball, soccer and field hockey. Due to overlapping fields, softball and soccer or field hockey league play cannot occur simultaneously; however, these flexible facilities will allow more of the school's athletic programs to occur on the site and generally will bring those uses closer to the residences on Booksin Avenue. In light of these changes, the project has been carefully designed and modified to ensure compatibility with adjacent uses.

Sixty-foot tall light standards, originally proposed to allow evening athletic events on the fields, have been removed from the proposal due to Zoning Code height limits and concerns expressed by surrounding property owners. The applicant has indicated that school athletic events are not expected to extend past 7:00 p.m. but will end sooner during the Winter months when days are short.

Design of the athletic fields also includes careful placement of facilities that will attract more intensive use along the northerly boundary of the site adjacent to St Christopher's school. Facilities located along this

less sensitive edge of the site include the batting cages, baseball backstop, bleachers, dugouts and bull pen.

The noise analysis prepared for the project indicated that these and other noise sources associated with athletic events would not exceed General Plan Noise Guidelines at the residential property lines.

Additional features of the project design proposed to improve land use compatibility include nets located at either end of the soccer field to prevent errant soccer balls from flying in to adjacent back yards. The site has also been fenced to prevent athletes or spectators from entering the neighborhood from the athletic fields. Two existing driveways from Booksin Avenue are proposed to be retained and gated for maintenance access only. All other vehicular access is expected to enter the site from Plummer Avenue. The landscaped setback along Booksin Avenue and adjacent to the southerly property line provide clear separation between the open space and the residential neighborhood while providing screening of the on-site activities.

The P.A. system proposed to be used for athletic competitions will be limited to between the hours of 8:00 a.m. and 7:00 p.m., Monday through Saturday and will not be used on Sunday. League games will not be scheduled on Sunday. The project noise analysis concluded that the P.A. system would not result in noise impacts on adjacent residences.

Based on the above analysis, staff concludes that the proposed athletic facilities and associated uses are compatible with the surrounding neighborhood.

Parking

The parking requirement for private schools was increased as part of the 2001 Zoning Code Update in recognition of the fact that private schools often attract students from a wide area, many of whom arrive by automobile. The current requirement is one space per 5 students and one per teacher or employee. Based on the current 730 student population, 50 teachers and 10 staff, the total required parking is 206 spaces. The school is proposing 212 parking spaces in reconfigured parking areas near the Plummer Avenue entrance to the site, adjacent to the proposed reconfigured athletic fields and along the southerly driveway.

The proposed parking facilities slightly exceed the Zoning Code parking requirements and provide parking facilities convenient to the proposed athletic facilities.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. Pursuant to CEQA Guidelines, the City of San José has prepared a Negative Declaration (ND) for the proposed project. The Negative Declaration concludes that the project will not result in any significant environmental impact.
4. The applicant, Presentation High School, is requesting a Conditional Use Permit (CUP) to allow expansion and modification of the athletic facilities at the existing 8.80 acre Presentation High School

campus located in the R-1-8 Residence Zoning District. Private schools were allowed by right in the R-1-8 District until 2001 when the Zoning Code Update required that such uses obtain a Conditional Use Permit, resulting in legal non-conforming status for schools like Presentation that were already existing. The proposed expansion of a legal non-conforming private school use requires a Conditional Use Permit.

5. The school is located on a “through lot” with frontage on both Plummer and Booksin Avenues. The school’s primary building is oriented to the Plummer Avenue frontage and vehicular and pedestrian access to the site is from this Street. Two driveway entrances on Plummer (the northerly two-way and the southerly one-way, out only) connect to form a circulation loop through the campus. The center of the site includes a gym, theater, Center for Christian Living, locker room building and parking. Two duplexes, tennis courts and an unused parking area are located along the Booksin Avenue frontage. A softball field and three small storage sheds are located directly behind the duplexes. The duplexes are owned by the Sisters of the Presentation and are currently used to house one Sister and the School’s groundskeeper.
6. St. Christopher’s Elementary School and single-family residences are located to the north of the project site. Single-family residences and a residential care facility are located to the south, and single- family residences are located to the east and west.
7. The project proposes to demolish the two duplexes on Booksin to reconfigure and expand the existing playing field that accommodates only softball, so that it includes both a softball diamond and a soccer/hockey field. The two fields will overlap so that they cannot be used concurrently for matches/games. The soccer and field hockey seasons (September through mid-February) do not overlap with the softball season (Mid-February to May.) The field will be surfaces with a high-quality artificial turf . The side safety zones for the soccer field are proposed to be approximately seven feet in width, while the end safety zones would be ten feet. A removable 20-foot high safety netting would be used along the northern and southern ends of the soccer/hockey field during games and practices. The softball field’s existing 20-foot high black vinyl backstop, bleachers, tow batting cages and a bull pen would be relocated as part of the proposed project. The bleachers will seat 150 spectators. A portable public address system currently used at the site for softball games will be replaced by a permanent P.A. system. The playing fields are not proposed to be lighted for nighttime activity.
8. The proposed 84 by 75 foot swimming pool is located approximately 70 feet from the northerly property line. Two one-meter diving boards are proposed on the eastern side of the pool and bleachers seating 150 spectators are proposed on the pool deck. An approximately 2,500 square-foot coaches’ building is proposed to be constructed to the west of the pool to be used for offices, bathrooms, and storage for pool chemicals and athletic equipment. An outdoor shower is proposed adjacent to the pool. The pool area will be surrounded by a six-foot wrought iron fence and landscaping. Eight 30-foot tall light poles are proposed for the swimming pool and pool deck. Each pole is proposed to support two full cut-off light fixtures with 1,000 watt lamps. The facility will be used for water polo and swim practice and competition, and for summer recreational swimming.
9. The project proposes to maintain the existing driveway access to the site from Plummer Avenue. The northerly driveway will be widened to 26 feet and the existing gates will be equipped with lock boxes to facilitate emergency access to the site in conformance with Fire Department requirements. Two locked gates are proposed to be installed along Booksin Avenue for maintenance access only. No pedestrian

access is proposed to the site from Booksin Avenue. The existing on-site parking is proposed to be reconfigured and increased from 204 to 212 spaces.

10. The project proposes to install new landscaping throughout the project site, including 54 additional trees. Additional shrubs and vines are proposed to be planted around the pool and on the neighborhood side of the proposed fence along Booksin Avenue. Additional street trees are proposed to fill in existing gaps along Booksin Avenue. A landscape infiltration swale with a depth of two feet is proposed along the westerly boundary of the site, between the existing sidewalk and the proposed fence, to accommodate increased storm water runoff due to the less permeable artificial turf used for the playing fields
11. No increases are proposed in the current student enrollment of 730 or in the number of teachers and staff (60). School hours will continue to be generally 7:40 a.m. to 2:40 p.m. with after school sports activities generally extending to between 5:30 and 7:00 in the evening. As result of the modified athletic facilities, the school's tennis program will no longer occur on the site. The softball program will continue on the site and soccer, field hockey, swimming and water polo will be moved from off-site locations to the campus.
12. The project noise analysis concluded that anticipated use of the pool for practices and competitions would not exceed the recommended General Plan day/night noise levels of 55 dB DNL at the nearest residential property line. The analysis took into account noise from the public address system which is proposed to be used for approximately 12 water polo games and 10 swim meets annually. In order to minimize any disturbance of adjacent residents, the applicant has agreed to use the P.A. system only during competitions and to limit the hours of use to between 8:00 a.m. and 7:00 p.m. Monday through Saturday and to preclude its use on Sundays.
13. Lighting of the pool facility consists of eight, 30-foot light poles equipped with dual box lights. The fixtures are full cut-off , with light directed downward. Lighting will only be used in the winter months (mid-September to mid-April). The full cut-off fixtures and the proposed 70-foot setback from the residential property line, will ensure that the pool does not result in spillover light or glare in the rear yards of adjacent residences. From a visual standpoint, replacement of the existing residences and tennis courts with athletic fields and landscaping is clearly a change, but not one that is visually incompatible with the surrounding neighborhood. Replacement of the tennis courts will remove the existing pavement and very tall fencing (with barbed wire) that currently dominate almost half of the street frontage. Removal of the duplexes along the remainder of the site frontage will alter the existing residential development pattern and make existing school buildings more visible from Booksin Avenue; however, the site frontage has been designed in a manner that is compatible with the residential character of the street and views of existing school buildings will be distant views of structures located approximately 400 feet from the Booksin Avenue. The project plans show the athletic field buffered from the street by an 8-foot vinyl clad chain link fence and 10 feet of landscaping, including trees, which will further soften views of the site from Booksin Avenue. Street trees will be planted in existing gaps along the street frontage to provide further screening. The applicant has agreed to explore options for mesh fencing with decorative posts that would improve the appearance of the fence without increasing the risk of injury.
14. The proposed project will replace residential and athletic uses (tennis and softball) at the westerly end of the site with open space that accommodates softball, soccer and field hockey. Due to overlapping fields, softball and soccer or field hockey league play cannot occur simultaneously; however, these flexible facilities will allow more of the school's athletic programs to occur on the site and generally

will bring those uses closer to the residences on Booksin Avenue.

15. Sixty foot light standards, originally proposed to allow evening athletic events have been removed from the proposal. Design of the athletic fields also includes careful placement of facilities that will attract more intensive use along the northerly boundary of the site adjacent to St Christopher's school. Facilities located along this less sensitive edge of the site include the batting cage, baseball backstop, bleachers, and dugouts. The noise analysis prepared for the project indicated that these and other noise sources associated with athletic events would not exceed General Plan Noise Guidelines at the residential property lines.
16. Additional features of the project design intended to improve land use compatibility include nets located at either end of the soccer field to prevent errant soccer balls from flying over residential fences. The site itself has been fenced to prevent athletes or spectators from entering the neighborhood from the athletic fields. Two existing driveways from Booksin Avenue are proposed to be retained and gated for maintenance access only. All other vehicular access is expected to enter the site from Plummer Avenue. The landscaped setback along Booksin Avenue and adjacent to the southerly property line provide clear separation between the open space and the residential neighborhood while providing screening of the on-site activities.
17. The P.A. system proposed to be used for athletic competitions will be limited to between the hours of 8:00 a.m. and 7:00 p.m., Monday through Saturday and will not be used on Sunday. League games will not be scheduled on Sunday. The project noise analysis concluded that the P.A. system would not result in noise impacts on adjacent residences.
18. The parking requirement for private schools was increased as part of the 2001 Zoning Code Update in recognition of the fact that private schools often attract students from a wide area, many of whom arrive by automobile. The current requirement is one space per 5 students and one per teacher or employee. Based on the current 730 student population, 50 teachers and 10 staff, the total required parking is 206 spaces. The school is proposing 212 parking spaces in reconfigured parking areas near the Plummer Avenue entrance to the site, adjacent to the proposed reconfigured athletic fields and along the southerly driveway. The proposed parking facilities slightly exceed the Zoning Code parking requirements and provide parking facilities convenient to the proposed athletic facilities.
19. Seven ordinance-size trees are proposed to be removed to allow implementation of the proposed improvements. The plans show 24-inch box replacement trees at a ratio of four to one.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram designation and relevant urban design policies.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is compatible with surrounding uses.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.
4. The location of the trees proposed for removal with respect to the proposed improvement unreasonably restrict the economic development of the parcel in question.
5. The Director of Planning has considered all of the following criteria in evaluating the proposed demolition. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
 - a. The failure to approve the permit would jeopardize public health, safety or welfare;
 - b. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
 - c. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
 - d. Both inventoried and non- inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
 - e. Rehabilitation or reuse of the existing building would not be feasible; and
 - f. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted and the demolition of two residential structures is approved. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all

subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Revised Plans.** Within 60 days of the issuance of this permit and prior to recordation, the applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
 - a. The applicant shall explore the availability of a mesh fencing system with decorative posts to improve the appearance of the fence without increasing the risk of athletic injury and shall submit a revised fence detail for the fence along the Booksin Avenue frontage to the satisfaction of the Director of Planning.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to the approved development plans entitled, "Presentation High School Phase II Aquatic Facilities and Sports Field Improvements" dated October 29, 2003, and last revised as indicated in Precedent Condition Number 2, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).

3. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. The applicant must abate any such nuisance immediately upon notice by the City.
4. **Demolition.** Prior to demolition of any structure, the applicant shall obtain a demolition permit from the Building Division and shall conform with the Bay Area Air Quality Management District requirements for asbestos..
5. **Construction Requirements.** The applicant shall ensure that the following construction measures are fully implemented throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City.
 - a. *Construction Hours.* Construction activities shall be limited to the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site construction activities located within 500 feet of any residential unit.
 - b. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive outside of the specified hours of construction to prevent the disruption of nearby residents.
 - c. *Fencing.* The area of construction shall be wholly enclosed by security fencing.
 - d. *Construction Employees.* Workers shall not arrive to the site until fifteen minutes prior to the commencement of construction activities within the approved construction hours. The applicant shall designate a location without adjacent residential units for workers to wait prior to commencement of construction activities.
 - e. *Plans.* The construction hours shall be printed on all plans for the project.
 - f. *Mitigation Measure Disclosure.* These construction measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the applicant is responsible to ensure the following occur prior to the issuance of a Building Permit for the project:
 - g. *Disturbance Coordinator.* A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other nuisance conditions in this permit.
 - h. *Daily Log.* The disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure activities, project cleanliness, complaints on site activities and conditions and dates and times of the coordinators visits to the project if the coordinator is not solely responsible for this project site.
 - i. *News Letter.* Prior to construction, the applicant shall notify in writing all of the property owners and tenants within 500 feet of the project site of the construction schedule and shall provide a phone number for the Disturbance Coordinator. The applicant shall provide newsletter updates as necessary to inform neighbors of any change in the schedule.

- j. During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts.
 - ? Dust-proof chutes would be used for loading construction debris onto trucks.
 - ? Watering would be used to control dust generation during break-up of pavement.
 - ? Water all active construction areas at least twice daily.
 - ? Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - ? Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - ? Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
 - ? Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
 - ? Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
 - ? Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - ? Install fiber rolls or other erosion control measures to prevent silt runoff to public roadways.
 - ? Replant vegetation in disturbed areas as quickly as possible.
- 6. **Lighting.** All parking lot lighting shall be low pressure sodium and full cut-off. New light standards shall be limited to a height of 20 feet.
- 7. **Outside Storage.** No outside storage is permitted except as shown on the project plans.
- 8. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the applicant. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
- 9. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building, and Code Enforcement prior to approval of the final inspection of the project.
- 10. **Colors and Materials.** All wireless communications antennas and screening colors and materials are to be those specified on the approved plan set and shall match the existing structure.
- 11. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
- 12. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-00640) to the satisfaction of the Director of Public Works:
 - a. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

- b. **Grading/Geology:** A grading permit is required prior to the issuance of a Public Works Clearance. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 277-4304 for more information concerning the requirements for obtaining this permit.

Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

A soils report addressing the potential hazard of liquefaction must be submitted to and accepted by the City Engineering Geologist prior to the issuance of a Public Works Clearance or a grading permit.

- c. **Electrical:** Installation/relocation/relamping of electroliers may be required and will be determined at the improvement plan stage.
- d. **Landscape:**
- 1) Replace any missing street trees in empty tree wells along Booksin Avenue and match existing trees.
 - 2) Show all existing trees by species and diameter that are to be retained or removed. Obtain a tree removal permit for any trees over 18" in diameter that are to be removed.
- e. **Street Improvements:**
- 1) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - 2) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - 3) Close unused driveway cut(s). Repair, overlay, or reconstruction of asphalt pavement may be required along Plummer Avenue frontage. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- f. **Construction Agreement:** The applicant will be required to obtain a Public Works Clearance prior to the issuance of a Building Permit. The clearance will require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, CP03-055, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Archaeology.* Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California; in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State Law, then the applicant shall re-enter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance
 - d. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets.
16. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. All existing hydrants shall be at least 10 feet from all driveways.
 17. **Fire Flow.** Required fire flow for the site is 4,500 g.p.m. or as approved in writing by the Fire Chief.
 18. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
 19. **Lock Boxes.** The project developer shall provide lock boxes, to the satisfaction of the City of San José, Police Chief and Fire Chief, prior to the issuance of Building Permits.
 20. **Fire Access.** Approved access road(s) and hydrant(s) shall be provided once wood framing is available at site or provide an alternate means of water suppression subject to the approval of the Fire Department. Obtain permit and pay applicable fees prior to the installation. Contact the San José Fire Department's Fire Protection Systems Section at (408) 277-8756.
 21. **Fire Flow.** Required fire flow for the site is 2,000 g.p.m. or as approved in writing by the Fire Chief.
 22. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
 23. **Enrollment.** Enrollment shall be limited to 750 students. Any increase in enrollment beyond 750 students shall be subject to additional permitting.

24. **Public Address System.** Use of the Public Address System for the pool and playing fields shall be limited to between the hours of 8:00 a.m. and 7:00 p.m. Monday through Saturday. Use of the system is not allowed on Sundays.
25. **Booksin Avenue Gates.** Maintenance vehicle access only is allowed via the two vehicle gates on Booksin Avenue. The gates shall be kept locked except when maintenance vehicles are accessing or leaving the site.
26. **Noise.** The sound level generated on this site shall not exceed 55 dba DNL at any property line adjacent to a property used for residential purposes and shall not exceed 60 dba DNL at any adjacent property line of property used for non-residential purposes.
27. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.